

107TH CONGRESS
1ST SESSION

S. 26

To amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2001

Mrs. FEINSTEIN (for herself and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. INTERIM REGIONAL LIMITATIONS.**

4 Title IV of the Department of Energy Organization
5 Act (42 U.S.C. 7171 et seq.) is amended by adding at
6 the end the following:

1 **“SEC. 408. INTERIM REGIONAL LIMITATIONS.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) COMMISSION.—The term ‘Commission’
4 means the Federal Energy Regulatory Commission.

5 “(2) COST-OF-SERVICE BASED RATE.—The
6 term ‘cost-of-service based rate’ means a rate,
7 charge, or classification for the sale of electric en-
8 ergy that is equal to—

9 “(A) all the variable and fixed costs for
10 producing the electric energy; and

11 “(B) a return on and of any invested cap-
12 ital.

13 “(3) INTERIM REGIONAL PRICE LIMITATION.—
14 The term ‘interim regional price limitation’ means a
15 price limitation on the rates charged for the provi-
16 sion of electric energy that—

17 “(A) includes a region-wide wholesale elec-
18 tric energy price limitation for a region com-
19 prising the Western Systems Coordinating
20 Council; and

21 “(B) reflects load differentiated demand.

22 “(4) LOAD DIFFERENTIATED.—The term ‘load
23 differentiated’ means the difference between price
24 limitations by season, time of day, and other rel-
25 evant usage patterns.

1 “(5) SECRETARY.—The term ‘Secretary’ means
2 the Secretary of Energy.

3 “(b) AUTHORITY TO IMPOSE LIMITATIONS.—The
4 Secretary shall impose, in any region of the United States,
5 an interim regional price limitation, or cost-of-service
6 based rate, on any sale of electric energy at wholesale rate
7 in interstate commerce subject to the jurisdiction of the
8 Commission under part II of the Federal Power Act
9 whenever—

10 “(1) the Commission has determined that the
11 rate, charge, or classification otherwise applicable to
12 such sale is unjust, unreasonable, or unduly pref-
13 erential or the Secretary determines that the rate,
14 charge, or classification otherwise applicable to such
15 sale exceeds the marginal cost of producing the elec-
16 tric energy by a significant amount or for a signifi-
17 cant length of time; and

18 “(2) the Secretary determines that—

19 “(A) the continued existence of such rate,
20 charge, or classification threatens public health
21 and safety or the economy of any State or re-
22 gion; and

23 “(B) the Commission has otherwise failed
24 to act to improve the situation.

1 For purposes of carrying out this section, the Secretary
 2 may exercise any authority vested in the Commission
 3 under the Federal Power Act for the fixing and enforcing
 4 of rates, charges, and classifications that are just and rea-
 5 sonable under Part II of that Act.

6 “(c) DURATION.—A regional price limitation or cost-
 7 of-service based rate imposed under subsection (b) shall
 8 remain in effect until such time as the market reflects just
 9 and reasonable rates, as determined by the Secretary.

10 “(d) AUTHORITY TO OPT OUT.—

11 “(1) IN GENERAL.—The Governor of any State
 12 within a region in which a regional price limitation
 13 or cost-of-service based rate is imposed under sub-
 14 section (b) may waive the application of such limita-
 15 tion or rate to sales of electric energy to purchasers
 16 in that State by notifying the Secretary in writing
 17 at any time after imposition of the price limitation
 18 or cost-of-service based rate.

19 “(2) EFFECTIVE DATE.—Not later than 30
 20 days after receiving a letter from a Governor of any
 21 State under paragraph (1), the Secretary shall waive
 22 the application of the price limitation or cost-of-serv-
 23 ice based rate to sales of electric energy to pur-
 24 chasers in that State.

1 “(e) PURPA FACILITIES NOT COVERED.—The au-
2 thority of subsection (b) shall not apply to any sale of elec-
3 tric energy generated by a qualifying small power produc-
4 tion facility or qualifying cogeneration facility (as defined
5 in section 3 of the Federal Power Act) that is exempt in
6 whole or in part from the Federal Power Act as provided
7 in section 210(e) of the Public Utility Regulatory Policies
8 Act of 1978.

9 “(f) EFFECT ON OTHER LAW.—Nothing in this sec-
10 tion affects any authority of the Commission under the
11 Federal Power Act (16 U.S.C. 791a et seq.) with respect
12 to sales of electric energy forwhich no determination has
13 been made under subsection (b).

14 “(g) EFFECTIVE DATE.—This section shall apply to
15 contracts for the sale of electric energy entered into or
16 renewed after the enactment of this section.”.

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